

1938 GENERAL LETTER NO. 31

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

August 31, 1938

To All Administrative Officers,
Southern Division.

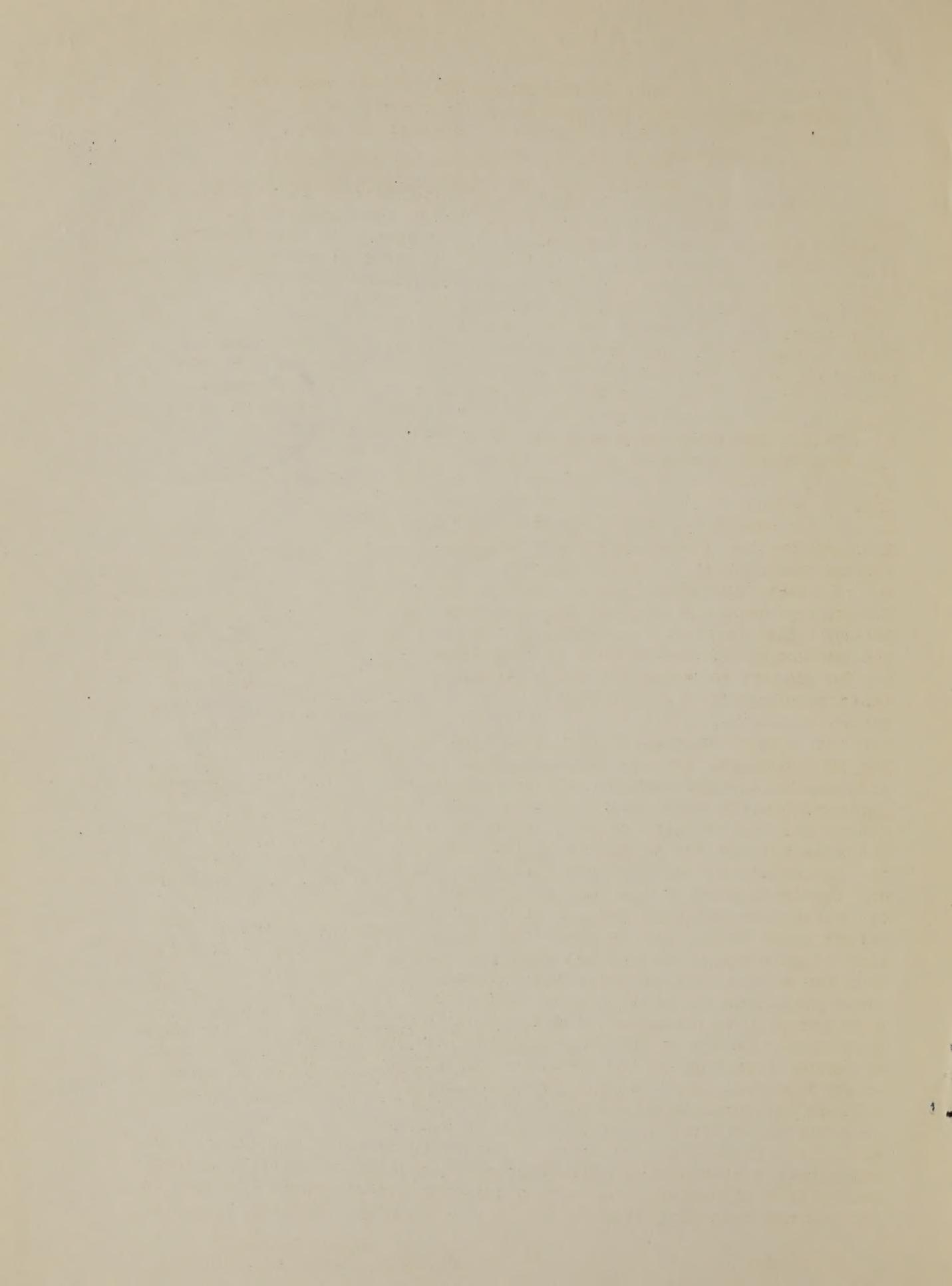


There has been brought to the attention of this Division a practice by certain law firms of making a distribution to farmers of blank copies of G.T. Form 111, Claim for Refund of Tax Paid under the Bankhead Cotton Act of 1934 on the Ginning of Cotton, Authorized by the Second Deficiency Appropriation Act, fiscal year 1938, a copy of which provision is enclosed. This distribution is apparently made with the expectation of collecting legal fees, which are limited by the Act to a maximum of 10 percent of the total amount of the refunds made to any individual.

The law firms in question have advised the farmers to go to our county offices for assistance in executing the claims against the Government. In this connection, you are advised that under no circumstances should any such assistance be given on the part of the county offices. This is a matter entirely between the claimant and the Bureau of Internal Revenue. That Bureau has not solicited the aid of the Department of Agriculture in carrying out the provisions of the Second Deficiency Appropriation Act as it applies to the Kerr Tobacco Act, the Potato Act of 1935, and the Bankhead Cotton Act of 1934. The county offices are not in possession of any records showing the amount of tax on the ginning of cotton paid to the collectors of internal revenue and are not authorized to expend public money by use of their time, equipment, and facilities in aiding any claimant in securing such refund. This office understands that the form is so devised that farmers able to read and write should be able to fill it out without assistance if possessed of the necessary information. The foregoing information should be sent to each county office.

I. W. Duggan
I. W. Duggan,
Director, Southern Division.

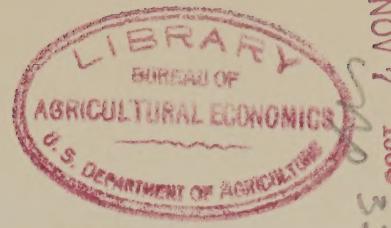
Enclosure



The Second Deficiency Appropriation Act, fiscal year 1938,
(Public Law No. 723, 75th Congress, Approved June 25, 1938)
under the item entitled "Bureau of Internal Revenue", pro-
vides as follows:

"For the refunding, which is hereby authorized, in accordance with rules and regulations to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, of all amounts collected by any collector of internal revenue as tax (including penalties and interest) under the Bankhead Cotton Act of 1934 (48 Stat. 598), as amended, the Kerr Tobacco Act (48 Stat. 1275), as amended, and the Potato Act of 1935 (49 Stat. 750), fiscal year 1939, so much of the appropriation in the immediately preceding paragraph as may be requisite is hereby made available for the purposes of and in accordance with the provisions of this paragraph: Provided, That no refund shall be made or allowed of any amount paid by or collected from any person as tax under such Acts, unless, after the date of the enactment of this Act, and prior to July 1, 1939, a claim for refund has been filed by such person: Provided further, That no refund shall be denied upon the ground that a proceeding to recover had become barred by the limitation provisions of such Acts, or by the provisions of section 3226, as amended, of the Revised Statutes, or by the provisions of section 608 of the Revenue Act of 1928: Provided further, That in the absence of fraud all findings of fact and conclusions of law of the Commissioner of Internal Revenue upon the merits of any such claim for refund, and the mathematical calculations made in connection therewith, shall not be subject to review by any court or by any other officer, employee or agent of the United States: Provided further, That no refund of any tax shall be made under this paragraph unless liability for the payment of such tax was satisfied by the payment of money; Provided further, That no interest shall be allowed in connection with any refund made under the authority of this paragraph: Provided further, That in the case of amounts paid as tax under the Bankhead Cotton Act of 1934 with respect to the ginning of cotton (a) refund shall be allowed to the ginner of the cotton only to the extent that the ginner has not shifted the burden of the tax by including it in any charge or fee for ginning, or by collecting it from the owner or owners of the cotton ginned, or in any manner whatsoever, and (b) refund shall be allowed to the owner or owners of the cotton at the time of ginning, to the extent that the amount of tax was shifted to such owner or owners by the cotton ginner and was not shifted by such owner or owners to other persons, and in such cases, but only for the purposes of this paragraph, the tax shall be considered to have been paid by the ginner to the United States for the account of such owner or owners. No part of the amount of any refund made under this paragraph in excess of 10 per centum of the amount of such refund shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such refund, and the same shall be unlawful, any contract to the contrary notwithstanding; and any person violating the provisions of this sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000".

1938 GENERAL LETTER NO. 32



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

September 7, 1938

To all Administrative Officers,
Southern Division:

The following questions and answers relating to regulations and instructions pertaining to cotton marketing quotas for the 1938-1939 marketing year under the Agricultural Adjustment Act of 1938, Title III, are submitted for your information:

1. Question: Is the landlord or operator a buyer or transferee of the sharecropper's or share tenant's share of cotton received by him from sharecroppers or share tenants on the land owned or operated by the landlord or operator to be marketed later by him; the settlement between the landlord or operator and the sharecropper or share tenant being made in whole or in part either before or after the cotton so received is marketed by the landlord or operator?

Answer: No. If the cotton was produced on a farm with respect to which white marketing cards (form Cotton 211) were issued, the cotton would be identified by the landlord or operator to the buyer or transferee by the white marketing card issued to the landlord or operator. In the event a red marketing card (form Cotton 212) showing the entire farm marketing quota was issued to the operator pursuant to section 402(b) of the regulations, the cotton would be identified to the buyer or transferee by the use of the red marketing card so issued and form Cotton 213 executed in the regular manner. However, if separate red marketing cards and books of forms Cotton 213 were issued to each producer on the farm, the sharecropper or share tenant who markets his cotton in the manner outlined in this question may execute Part II of the red marketing card and deliver it with the book of forms Cotton 213 to the landlord or operator to be used by him as the agent of the sharecropper or share tenant to identify the sharecropper's or share tenant's portion of the cotton at the time it is marketed.

It should be observed that the foregoing answer is not applicable to cases where the landlord of a standing- or fixed-rent tenant receives cotton from such tenant in payment of his stipulated rent, which were discussed in question number 1 in the 1938 General Letter No. 30.

2. Question: Is a cotton factor or cotton broker selling cotton for a producer to a third person a buyer or transferee of cotton within the meaning of the regulations?

Answer: No. Factors (commonly called commission merchants in some areas) and brokers are special classes of agents and are not, for the purposes of the present law, to be regarded as the owners of the cotton with respect to which the agency was created. The cotton must be identified, when marketed by a factor or broker, to the buyer or transferee as in other cases where the producer does not sell his cotton directly and in the presence of the buyer or transferee.

If the producer was issued a white marketing card (form Cotton 211), the cotton could be identified to the buyer or transferee by use of form Cotton 211-A, which would be executed in so far as possible by the producer and left with the factor or broker to be completed and executed by the third-party buyer or transferee. In other cases the producer could authorize the factor or broker to act as his agent in the use of the white marketing card by executing Part II thereof and leaving it with the factor or broker.

In the event that a red marketing card (form Cotton 212) was issued to the producer, the producer would execute form Cotton 213 as in the case of other transactions where the producer does not sell his cotton directly in the presence of the buyer or transferee. Form Cotton 213 so executed would be left with the factor or broker to be delivered to the buyer or transferee, who would complete its execution and collect the penalty, if any, due with respect to the marketing of the cotton covered thereby. The producer may also empower the factor or broker to use his red marketing card and execute form Cotton 213 for him by executing Part II of form Cotton 212. Likewise, the actual buyer or transferee may authorize a factor or broker to act as his agent in executing Part III of form Cotton 213 and filling in the name of the buyer or transferee in Part II thereof or in executing Part II of form Cotton 211-A and in filling in the name of the buyer or transferee in Part I thereof.

A person who acts as a factor or broker may, of course, happen to be also a cotton buyer and the fact that he is commonly known as factor, commission merchant, broker, or agent is not controlling. If he buys on his own behalf and in turn sells to others on his own account, he is not an agent but the buyer of the cotton. The facts in each case must be examined to determine the relationship of the parties. If the agent (whatever his business name or title may be) is put in possession of the cotton for the purpose of selling it and does not acquire title thereto in his own right, he acts in the transaction through the authority of the producer in selling the cotton to another party.

In any case, after a factor or broker has been authorized to act as an agent it is possible that he and the producer may change their relationship so that the factor or broker purchases in his own right the cotton with respect to which the agency was created and thereby become the buyer thereof within the meaning of the regulations.

3. Question: Is the factor or broker who makes an advance on the producer's account the buyer or transferee of the cotton in his possession to be marketed for the producer?

Answer: The factor nearly always has a lien upon the cotton, or the proceeds thereof, in his possession to secure payment of the general balance of the account between himself and the producer and he customarily may sell the cotton to satisfy his claim but he would not be the buyer of the cotton for the reasons stated in the answer to question number 2 above unless he acquired title to the cotton and thereby terminated the agency with respect to such cotton. The same would be true as to a broker, although he seldom has a lien on the cotton.

4. Question: Is the person from whom the producer receives the proceeds from the marketing of his cotton to be considered the buyer or transferee of the cotton?

Answer: A buyer or transferee, within the meaning of the regulations, is one who acquires title to cotton from a producer and it is immaterial whether payment for the cotton is made to the producer directly by the buyer or transferee or through an agent of the producer or of the buyer or transferee. Where cotton is marketed for a producer by a broker or factor who receives the proceeds from the marketing of the cotton and pays them over to the producer, the broker or factor does not by that fact acquire title to the cotton. His action in receiving the proceeds from the buyer or transferee and in paying them over to the producer is in performance of his contract of agency with the producer. In each case it is necessary in determining who is a buyer or transferee to look to the producer and to the person who acquires title to the cotton from the producer and this ultimate fact should not be confused with the intermediate means or agencies adopted by the producer or the buyer or transferee, or both, in effecting the transfer of title to the cotton and the transmission to the producer of the purchase price for the cotton.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

September 9, 1938.

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:



This is with reference to the withholding of payments to producers as a means of collecting the penalty due under section 348 of the Agricultural Adjustment Act of 1938 for the marketing of cotton in excess of the farm marketing quota for a farm.

If the county committee finds, or has good and sufficient reason to believe, that any person who produces cotton in 1938 on any farm on which the acreage planted to cotton in 1938 is in excess of the cotton acreage allotment established therefor has evaded or will attempt to evade the regulations in an effort to avoid payment of the penalty, all payments which may be or become due to such producer under any of the programs administered by the Agricultural Adjustment Administration shall be withheld and not delivered to such producer unless and until either the amount of any penalty for which such producer is or may be liable is determined and deducted from such payments or it is established, as evidenced by a certification of the county committee, that the actual production of cotton on such farm in 1938 is not in excess of the farm marketing quota for such farm or that payment of the penalty which is or may become due has been made or has been secured by a bond of indemnity or funds held in escrow as provided in section 507 of the cotton marketing quota regulations (Cotton 207).

In order that payments, including among others payments under the 1937 Cotton Price Adjustment Payment Plan, the 1938 Agricultural Conservation Program, the Sugar Act of 1937, and the Price Adjustment Act of 1938, may be withheld for the purpose stated, county committees should be instructed to withhold approval of every application for payment filed by any producer who has failed to pay or secure the payment of the penalty which became due or who such committee has good and sufficient reason to believe has evaded or will attempt to evade the regulations in an effort to avoid payment of the penalty. County offices should be instructed to report all such cases promptly to the State office in order that the State office may withhold approval of any applications submitted by any such producers or stop payment on any Government checks theretofore delivered to such pro-

ducers.

You will be advised later of the procedure to be followed in deducting from suspended payments the amount of any penalty incurred.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.



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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

September 10, 1938.

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:

There has been presented the question of the procedure to be followed by treasurers of the county committees under section 224(d) of Cotton 208-SR in paying postage in connection with the business reply cards forms Cotton 211-A-t, 213-b and 221-b.

The Post Office Department has authorized postmasters to arrange with treasurers of the county committees to collect the postage due on the cards in two ways; namely, (1) to collect the postage due on each card or group of cards at the time of delivery to the treasurer of the county committee or (2) to collect once a month the postage due on all cards delivered to the treasurer of the county committee during the month. Regular postage stamps can not be used in connection with the cards since the Postal Laws and Regulations require the use of "postage-due" stamps. Postage-due stamps can not be purchased in advance and regular postage stamps can not be exchanged for postage-due stamps. In case arrangements are made whereby the postage due is paid as the cards are delivered, the postage-due stamps will be affixed to Form 3582a, "Postage Due Bill", and, if necessary, Form 3582a-F, "Postage Due Bill Follow Sheet", and delivered with the cards to the treasurer of the county committee upon payment of the postage. Where the postage is collected at the end of the month, the postmaster will affix postage-due stamps to Forms 3582a and 3582a-F and tender it to the treasurer of the county committee for payment. In either case, the postage due must be paid upon presentation of the postage due bill and the payment can not be deferred until the administrative expense voucher covering the item is paid.

The funds for paying the postage in connection with the cards under either of the methods outlined above may be furnished by the treasurer of the county committee out of his personal funds or a claim therefor may be stated in advance for the estimated amount to be incurred against the administrative expense funds approved in the budget of the county committee.

In case the postage due on the business reply cards is paid out of the personal funds of the treasurer of the county committee,

a claim for reimbursement should be made by him on Form ACP-9, Revised, in accordance with paragraph 3(c), part C, of section I of SR County Association Procedure 101, Revised. If the possible number of business reply cards to be received in any month will not be large, this method would appear to be desirable since it conforms to the established procedure for supplying the county committee with postage.

If the possible number of cards to be received in any month will be large, a claim for the estimated amount of postage expense to be incurred may be stated in the administrative expense voucher for the preceding month. In stating a claim in advance for this purpose, the item should be listed on Form ACP-9, Revised, as in the case of other miscellaneous items, with the following exceptions:

- (1) In the column headed "Name of Individual or Firm", enter the name, title, and address of the postmaster from whom the postage-due stamps will be purchased.
- (2) In the column headed "Nature of Services or Kind of Material", enter the words "Estimated postage for cotton marketing quota business reply cards".
- (3) Make no entry in the columns headed "Quantity" and "Price Per Unit".

When an advance claim is so stated, no receipt or bill will accompany the statement of administrative expenses to substantiate the item. This modification of the procedure is limited to cases of this precise nature and shall not be authorized or used in connection with any other item of administrative expense of the county committee.

Where payment for the postage due is paid out of the personal funds of the treasurer of the county committee and he is reimbursed out of the administrative expense funds in accordance with the established procedure, Forms 3582a and 3582a-F to which the canceled postage-due stamps are affixed shall be filed with the county office copy of the Form ACP-11 containing the receipt from the treasurer of the county committee for the funds paid to him under his claim for expenses in connection with the postage. Where a claim in advance is made for the estimated amount of the postage expense to be incurred in this connection, a receipt from the postmaster on Form ACP-11 must be secured. If the actual amount of the postage due on the cards during the month does not agree with the estimate and the amount advanced, Form ACP-11 must be modified so that the receipt

to be obtained from the postmaster will be for the amount of the postage expense actually incurred during the month and paid. Forms 3582a and 3582a-F must be filed with the county office copy of Form ACP-11 containing the receipt from the postmaster.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.



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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

September 21, 1938.

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:

In order to comply with the requirements of the provisions of the Act of June 30, 1906 (34 Stat., 763) and to furnish satisfactory periodical accountings, it has become necessary to obtain reports from Treasurers of the County Committees in regard to the funds deposited in and disbursed from the Cotton Special Deposit Trust Account prescribed in section 510 of the regulations pertaining to cotton marketing quotas for the 1938-1939 marketing year (Cotton 207).

The reports are to show the status of the special deposit account as of the last day of each month as reflected in form Cotton 256. The first report should be prepared with respect to the status of the special deposit account as of September 30, 1938. The reports should be submitted to the State office by the Treasurer of the County Committee not later than the fifth day of each month in the following form, a separate report being made for each depository where special deposit accounts are maintained in two or more banks:

(State and county code number)

SUMMARY OF CASH RECEIPTS AND DISBURSEMENTS
COTTON SPECIAL DEPOSIT TRUST ACCOUNT

as of _____, 193____.

County, State of _____

Name of Depository _____

Address of Depository _____

1. Funds Received to be Held in Escrow (Total of column 4 of form Cotton 256)	\$ _____
2. Transfers of Funds Held in Escrow (Total of column 8 of form Cotton 256)	_____
3. Balance of Funds Held in Escrow (Item 1 minus item 2)	\$ _____

4. Collections

(Total of column 13 of form Cotton 256)

5. Disbursements:

(Total of column 19 of form Cotton 256)

a. Refunds to producers \$ _____
(Total of forms Cotton 258)

b. Remittances for transmittal
to Treasurer of U. S. _____
(Total of forms Cotton 259)

Total of Disbursements
(Item 5a plus item 5b)

6. Balance of Collections

(Item 4 minus item 5)

7. Balance of Total Receipts

(Item 3 plus item 6)

\$ _____

(Date)

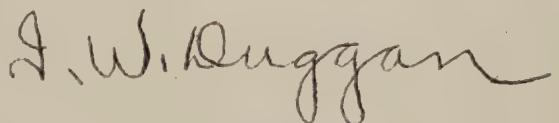
(Signature of Treasurer of County Committee)

The summary of cash receipts and disbursements must be reconciled with the balance in the special deposit account as reflected on the books of the depository bank, allowing for items received by the depository bank for collection and not yet placed to the credit of the account and checks drawn against the account which have not been presented to and paid by the depository bank. The summary should also be verified by subtracting from the sum of the amounts on forms Cotton 219 and 219-A the sum of the amounts on forms Cotton 258 and 259. The Treasurer of the County Committee should also verify the fact that all used and unused forms Cotton 219, 219-A, and 258 are accounted for by checking the printed serial numbers appearing thereon. The total amount of the net collections as shown in item 6 of the summary should equal the result obtained by subtracting from the sum of the entries on line (b) in columns (24) through (30) of all forms Cotton 254 the sum of the entries on line (b) in columns (33) and (35) and in the margin to the right of column (37) of all forms Cotton 254. A similar verification of the amount of funds held in escrow as shown in item 3 of the summary should be made by comparing this amount with the sum of the entries on line 3, Part II of forms Cotton 254 for farms for which money was placed in escrow which has not been refunded to the owner or operator or remitted to the State Committee.

The summary should be prepared in duplicate, the original forwarded to the State Committee and a copy retained in a folder for such forms in the county office.

The information shown on the summaries submitted from all counties in the State should be transcribed in the State office to a listing sheet prepared with the following columnar headings: (1) name of county; (2) name of Treasurer of County Committee; (3) name of depository bank; (4) address of depository bank; (5) funds received to be held in escrow; (6) transfers of funds held in escrow; (7) balance of funds held in escrow; (8) collections; (9) refunds to producers; (10) remittances for transmittal to the Treasurer of the United States; (11) total disbursements; (12) balance of collections; and (13) balance of total receipts. The listing sheet should be entitled "Summary of Cash Receipts and Disbursements - Cotton Special Deposit Account - State of _____" and should show the date with respect to which the report is completed. The report should be submitted to this Division in duplicate.

For short reference, the summary report from the Treasurer of the County Committee will be designated as form Cotton 256-A and the summary report from the State office will be designated as form Cotton 256-B.



I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 36



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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

September 29, 1938.

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:

The following supplement to ACP Letter No. 24, containing changes in the instructions issued to treasurers of county associations, was issued by the Treasury Department.

"ACP Letter No. 24, Supplement No. 1

September 23, 1938.

INSTRUCTIONS TO TREASURERS OF ASSOCIATIONS DESIGNATED AS PER FORM 1721 (LETTER TRANSMITTING CHECKS) TO DISTRIBUTE AND ACCOUNT FOR CHECKS ISSUED ON ACCOUNT OF THE AGRICULTURAL CONSERVATION PROGRAM PAYMENTS.

1. ACP Letter No. 24, paragraph 2(a) is amended to read as follows:

(a) Checks must be delivered only to the payee in person or mailed to him at his regular mail address, except that

1. where an absentee landlord has authorized an agent to execute an application for payment on his behalf and has authorized in writing an agent to receive the check for him, or

2. where a landlord executed an application for payment and subsequently, due to his absence, has authorized in writing an agent to receive the check for him, the check may be delivered personally to the agent or may be mailed to the agent at his regular mail address.

3. such authorization made by the payee must be retained by the County Association Treasurer and the signature compared with the payee's signature on file in that office before releasing the check.

2. The above procedure is applicable to checks issued under the Agricultural Conservation, Cotton Price Adjustment, and Sugar Programs.

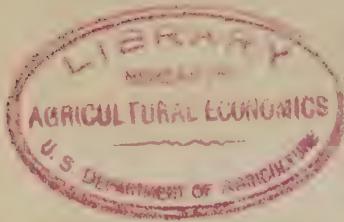
/s/ G. F. Allen

G. F. Allen
Chief Disbursing Officer "

Copies of this revised instruction are being furnished the treasurers of county associations by the regional disbursing offices and this letter is sent you for your information and files.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

October 10, 1938

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:

Producers and ginners, as well as county committeemen, should appreciate fully the importance of the ginner's record and report on form Cotton 216 as a basis for the determination of normal yields per acre of cotton for individual farms and counties. While ginners are primarily responsible for the preparation and submission of the reports, the importance to each producer of the accuracy and promptness with which each ginner's report is made can not be emphasized too strongly. If the ginner's report is to accomplish its purpose the reports of cotton ginned must be transcribed promptly and accurately in the county office to the individual farm records.

The information contained in forms Cotton 216 will be used for purposes other than establishing and adjusting farm marketing quotas. The normal yield for a farm is a fundamental element in computing agricultural conservation payments, parity payments, and cotton price adjustment payments, as well as in fixing the minimum amount of farm marketing quotas for cotton. Normal yields per acre for cotton are now established on the basis of the production history in the preceding five years, adjusted for abnormal weather conditions. This means that the record obtained from forms Cotton 216 will be largely the determining factor in establishing yields for the 1939 program. If the present system of reporting the amount of cotton ginned for each farm were to be continued for a period of five years or longer, the years for which accurate records were not available will have been dropped and years for which production records are available will be substituted.

The amount of cotton ginned across county lines as reflected in forms Cotton 216 will be tabulated so that each county will know that it has received full credit for the amount of its cotton production in 1938. The questions relating to ginnings across county lines may be answered by this system of reporting, in the same way that problems in connection with farm normal yields will be minimized. It should be remembered in this connection that an act authorizing the Director of the Census to collect and publish statistics of cotton, approved April 2, 1924, was amended on June 14, 1938 (Public No. 600 - 75th Congress) so that every cotton ginner is required thereunder "to keep a record of the county or parish in

which each bale of cotton ginned by him is grown and to report at the March canvass of each year a segregation of the total number of bales ginned by counties or parishes in which grown." The question of the production on county line farms, that is, farms situated in two or more counties, in connection with the agricultural programs will be dealt with at a later date.

The ginner in his relationship with the producer and the county office is in a position to render an invaluable service to his customers by properly carrying out his duties under the Act. On the other hand, if the ginner does not make the reports as required by the regulations, he deprives his customers of the benefits of the reporting system and subjects himself to the penal provisions of the Act which cover cases in which the requested reports are not submitted or cases in which false reports are made.

Each producer should fully understand that his interests require that he know at the time he gins his cotton that the ginner will properly report to the county office the amount of the cotton ginned and that the ginner has all information necessary to make the report. Ginners and producers must work together to the end that the ginner's record and report will reflect for each bale, or lot of cotton if less than a bale, the farm serial number, the name of the farm operator, and the name of the producer on whose producer unit the cotton was produced. If the producer gives the ginner incorrect information so that the farm on which the cotton was produced is not given the proper credit for its production, the normal yield for the farm in subsequent years will be adversely affected. The county committee should study conditions in the county in order that it may make suggestions and offer assistance to farmers and ginners in this connection.

The reports required of ginners this year are far less burdensome than those required of ginners in 1934 and 1935 in connection with the administration of the Bankhead Cotton Act of 1934. It appears that the duty of making the reports will not be any heavier than that which citizens and businesses have for many years assumed in assisting the exercise of both federal and state governmental functions. The Department is furnishing the necessary forms on which the reports will be made and the reports will require very little, if any, information in addition to that which ginners customarily obtain for their own records.

After the ginner's report is submitted to the county office, the information must be transcribed at once to individual farm records in two operations; namely, (1) recording on form Cotton 251 the cotton ginned from farms planting within the acreage allotment as provided in section 208 of Cotton 208 - Part II, and (2) recording on form Cotton 254 the cotton ginned from farms planting in excess of the acreage allotments as provided in section 218 of Cotton 208 - Part II. In order to illustrate

this procedure, it is assumed that report number 1 from gin number 3 covering the period from September 16 through September 30 is received in the county office. The first step should be to segregate the information on the report for each farm from the information shown for all other farms. In the case of a farm serially numbered 296, it is assumed that the information on form Cotton 216, exclusive of the information for other farms, would appear as follows:

Form Cotton 216:

Farm Serial No.	Date of Ginning	Name of Farm Operator	Name of Producer if Other Than Operator	County in Which Farm is Located	Gin Bale No. or Mark	Gross Weight of Bale (including bagging & ties)
A	B	C	D	E	F	G
296	9/18/38	John Doe		A	141	528
296	9/19/38	John Doe	Richard Roe	A	156	490
296	9/19/38	John Doe	Bill Smith	A	157	500
296	9/23/38	John Doe		A	202	530
296	9/24/38	John Doe	Richard Roe	A	230	515

If the acreage planted to cotton on the farm does not exceed the cotton acreage allotment, the information for the farm should first be recorded on an office memorandum form prepared as follows:

Gin Serial No. 3

Gin Report No. 1

Farm Serial No. 296

Name of Operator: John Doe

Name of Producer	No. of Bales	Gross Weight	Net Weight
John Doe	1	528	506
Richard Roe	1	490	468
Bill Smith	1	500	478
John Doe	1	530	508
Richard Roe	1	515	493
Total	5	2563	2453

After the information is recorded on the office memorandum form, the information should be transcribed to form Cotton 251 as follows:

Farm Serial No.	Name of Operator or Producer	Serial No. Cotton 216	Net Pounds
(1)	(2)	(3)	(4)
296	John Doe	3-1	2453

If the acreage planted to cotton on the farm in the example exceeds the cotton acreage allotment, it will be necessary to refer to form Cotton 255 to determine the share of each producer in the cotton produced on the farm. It is assumed for the purposes of the example that John Doe, the operator, works a producer unit and that he is entitled to one-half of the cotton produced by Richard Roe and Bill Smith on their respective producer units. In this case, the information shown on form Cotton 216 would first be recorded on an office memorandum form prepared as follows:

Gin Serial No. 3

Gin Report No. 1

Farm Serial No. 296 Name of Operator: John Doe

Name of Producer	No. of Bales	Gross Weight	Net Weight	Producer Shares	Landlord	Operator	Tenant
John Doe	2	1058	1014	-	1014		
Richard Roe	2	1005	961	-	480	481	
Bill Smith	1	500	478	-	239	239	
Total	5	2563	2453	-	1733	720	

After the information is recorded on the office memorandum form, the information should be entered on form Cotton 254 as follows:

Name of Producer	Reference No.	Net Pounds
(1)	(8)	(9)
Richard Roe	(a)	481
	(b)	
Bill Smith	(a)	239
	(b)	
John Doe	(a)	1733
	(b)	

After the information for all farms in the county covered by the report has been recorded as indicated above, the total poundage shown on the ginner's report should be verified by entering beneath the last figure in column (G) of form Cotton 216 the gross weight of the cotton listed therein. From this figure subtract the sum of the results obtained by multiplying the number of square bales by 22 pounds and the number of round bales by 3 pounds. The resulting figure will be the net weight of the cotton covered by the report. The sum of net poundage figures for all farms as shown on the office memoranda forms indicated above plus the net poundage shown on the extracts from the ginner's report prepared as outlined in section 219 of Cotton 208 - Part II should equal the net weight of the cotton covered by the report.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 38



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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

October 26, 1938

To All Administrative Officers,
Agricultural Adjustment Administration,
Southern Region:

The question has been raised as to whether the amount entered in Parts I and II of ACP-69 may include interest.

While the law prohibits collecting interest in advance and any other method of discounting payment, and the regulations, ACP-70, "Instructions Relating to Assignments and Use of Form ACP-69", require that "the amount of the cash or the cash value of the supplies or services must be stated exactly", the statute does not prohibit assignments to cover payment of interest earned. In such cases the assignments covering interest should state separately the amount of interest not exceeding the legal rate under State law accruing from date stated at rate stated therein, as, for example, filling in Part I, Form ACP-69, to read "in consideration of one hundred and four dollars (\$104.00) which includes four dollars interest at six percent per annum from May 20, 1938, hereby assigns to" etc., and filling in Part II thereof to read "of which, including four dollars interest at six percent per annum from May 20, 1938, one hundred and four dollars (\$104.00) now remains undischarged.

If assignment covers funds or supplies advanced at different dates the date from which interest runs should be stated as the average date.

The period for which interest may be computed and included in Parts I and II of Form ACP-69 cannot extend to a date later than the date Part II of such Form ACP-69 is executed. Part II must be executed and filed in the county office before application for payment is made under the 1938 Agricultural Conservation Program.

I. W. Duggan
I. W. Duggan,
Director, Southern Division.

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GENERAL LETTER NO. 39

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U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D.C.

November 25, 1938

To All Administrative Officers
and State Committeemen,
Southern Region:

In order to eliminate the necessity of the administrative officer having to send a copy of each general letter to members of the State committee, a copy of each of these letters will be mailed direct to State committeemen from this office. It is believed that this plan is more practical, since it will enable State committeemen to have the information from two to three days earlier. The envelopes may also be prepared from addressograph plates available here.

To save time in the State office in making copies of various letters, which include requests for consideration, investigation, recommendation, approval, etc. of the State committee, a copy of each such letter will be sent by this office to each member of the State committee. Such a plan will give members of the committee an opportunity to consider the problem before meeting and will enable them to be in a better position to discuss the matters which are presented to them at regular or called meetings.

Any suggestions which you may have along this line will be appreciated.

I. W. Duggan
I. W. Duggan,
Director, Southern Division.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

November 16, 1938

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To All Administrative Officers,
Agricultural Adjustment Administration
Southern Region:

There has come to the attention of this Division activities on the part of certain lawyers to encourage organization of farmers for the purpose of making representations to certain officials of the Government and such other persons as may be necessary in order to have the Act of Congress approved June 25, 1938, known as the Second Deficiency Appropriation Act, fiscal year 1938, "amended or construed" so as to provide for the refunding of moneys paid for the purchase of additional cotton tax-exemption certificates from farmers to whom they had been issued under the Bankhead Cotton Act or for the purchase of the right to a part of the tobacco marketing allotment under a tobacco production adjustment contract entered into in 1934 or 1935 under the Agricultural Adjustment Act of 1933. Farmers, it appears, are urged to join this movement by paying a \$5.00 membership fee and at the same time filing with the lawyers claim for the refund of moneys so paid.

The Second Deficiency Appropriation Act, fiscal year 1938, provides for the refunding of taxes paid to a collector of internal revenue under the Bankhead Cotton Act of April 21, 1934, the Kerr Tobacco Act of 1934, or the Potato Act of 1935. This Act does not provide for the payment to farmers of moneys expended by them for the purchase of surplus cotton tax-exemption certificates from other producers either directly or through one of the National Surplus Cotton Tax-Exemption Certificate Pools. Neither does it provide for the payment to farmers of moneys expended by them for tobacco marketing allotments purchased in order to avoid the payment of taxes under the Kerr Tobacco Act. In other words, this Act provides only for the refunding of moneys paid as taxes into the United States Treasury. There is no basis for construing it as providing for anything more.

When cotton tax-exemption certificates were purchased, payment for them was made to the farmer disposing of his surplus certificates and not to the Government. The Government neither bought nor sold certificates but issued them free of charge to all cotton producers making application therefor. Considerable confusion has resulted from a rather widespread belief that moneys paid for certificates purchased through one of the National Surplus Cotton Tax-Exemption Certificate Pools were paid into the Treasury for use by the Government. As a matter of fact, the pools were only mediums through which farmers wishing to buy dealt with farmers wishing to sell certificates and the moneys collected by the pools belonged to and were distributed to the cotton farmers who had placed their surplus certificates therein for disposition, less, of course, a small amount deducted for administrative expenses. These certificates were surplus only

because of the fact that certain farmers had suffered complete or partial crop failures or had planted an acreage that would produce less than their Bankhead allotment of cotton and, therefore, had no use for such certificates.

It is estimated that the certificates remaining unused in the hands of those to whom they were originally issued under the provisions of the Bankhead Act and those portions of certificates which remained unsold by the pools in which they were placed represented exemption for approximately 700,000,000 pounds of cotton. If these certificates were to be redeemed by the Government at the most commonly recommended rate of 4 cents per pound, the cost to the Government would be approximately \$28,000,000. The demands of those who used certificates they purchased and those who hold certificates which they purchased but did not use would result in a potential demand against the Government amounting to approximately \$51,500,000, which, together with the \$28,000,000 for the classes of certificates mentioned above, would bring the total demand against the Government to approximately \$79,500,000, exclusive of the considerable administrative expense of making such payments.

It remains the position of the Department that there is no equitable, moral, or legal ground for the Government to undertake any plan whereby payments would be made to persons who purchased additional tax-exemption certificates to cover production in excess of their allotments under the Bankhead Act, since the moneys paid for these certificates were, as stated above, paid to the farmers disposing of them and not to the Government.

The same applies to cases where unused certificates remain on hand. Certificates in and of themselves had no intrinsic value, but were merely intended to express a tax-free quota. It is true that a transfer rate was established by the Secretary of Agriculture, but this was done to comply with the requirement of the law that the transfer regulations should prevent speculation and sharp practices in dealings in certificates. If transfers had not been permitted by the statute, no transfer rate would have been established.

What has been said above about the cotton tax-exemption certificates as it relates to transfers between producers also applies to the voluntary transactions between farmers, directly or through the county office of the Agricultural Adjustment Administration, of tobacco allotments under the Kerr Tobacco Act, where one sold and the other bought a part of such allotment for the farm which was not needed by the seller and which enabled the buyer to obtain the advantage of avoiding the payment of a tax on the sale of his tobacco.

Some of the tobacco allotment cards purchased from the county office in 1935 were issued pursuant to the provisions of Administrative Ruling 50 relating to flue-cured tobacco production adjustment contracts. Under this ruling and the agreement executed by the producer on the Form T-218 which supplemented and amended the flue-cured tobacco production-adjustment contract, the payments made to the Secretary were in consideration of the producer's being permitted to market an additional amount of tobacco under

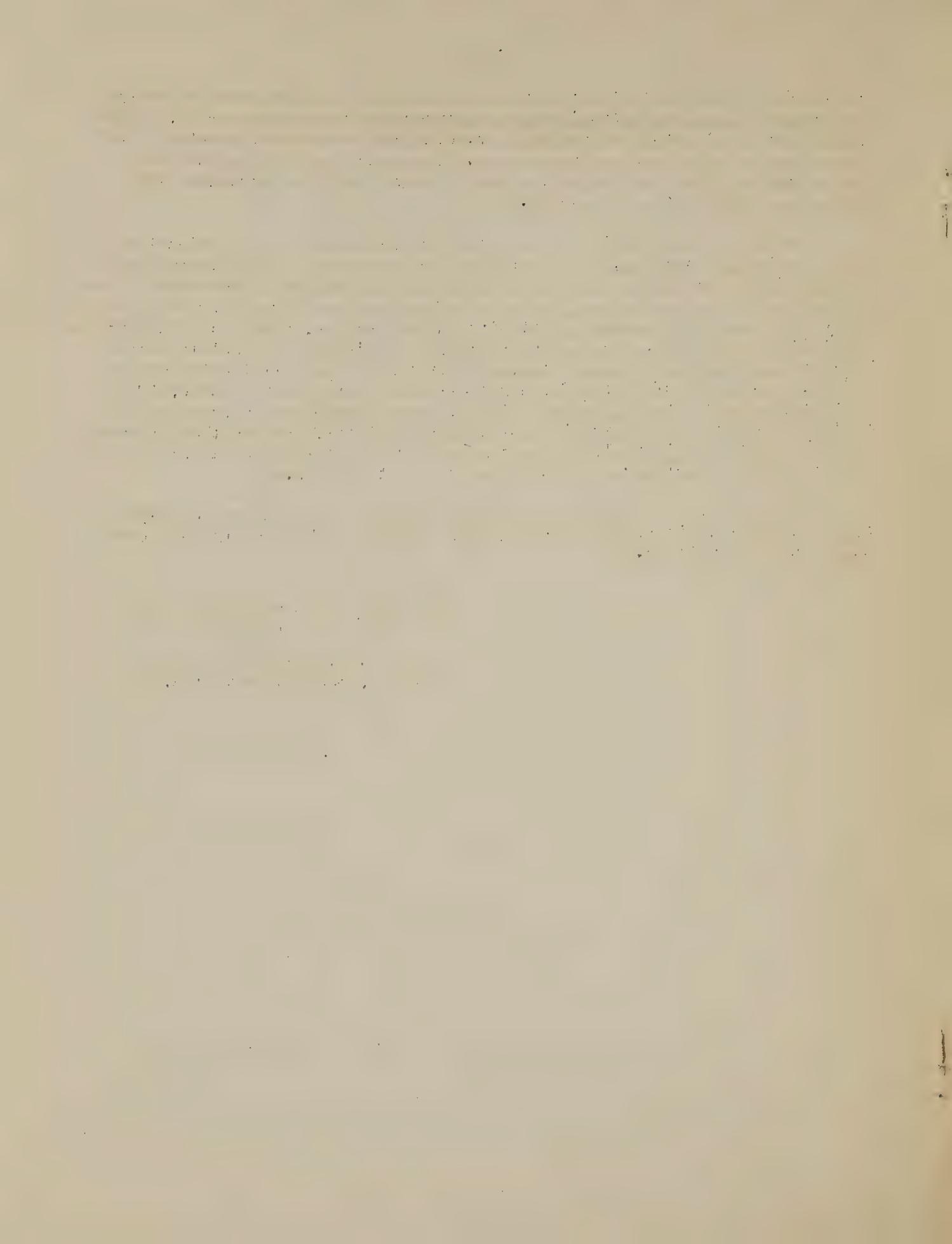
his contract and were in the nature of refunds to the Government of rental and benefit payments previously made in connection with his contract. The making of these refunds to the Secretary did not constitute payment of the taxes levied under the Kerr Tobacco Act. There is no existing law under which any producer may obtain a refund of moneys paid in accordance with agreements executed on Forms T-218.

From the foregoing it seems that the reasonable rule to follow is that the time, facilities, and equipment of the county offices should not be used in searching the records to determine the amount of purchases of such certificates for individuals, since no useful purpose under the provisions of the law would be served in furnishing them precise or detailed statements. The facts stated above, showing the aggregate dealings in and holdings of certificates and the general statement about the tobacco allotment transactions, should be sufficient for any legitimate purpose. Of course, if the county office records of the various transactions are so arranged that access thereto by the farmer will not disturb or interfere with the current work of the office, it would be entirely proper to allow the producer to examine the old record relating to him but not to others.

In general, it would seem to be unnecessary for farmers to employ any representative to press their claims for hire or otherwise in connection with these matters.

I. W. Duggan

I. W. Duggan
Director, Southern Division.



1938 General Letter No. 41

(Not applicable to farms in the counties designated
in paragraph 3, subsection A, Section XI of SRB-201)

Mo. 41
JAN 6 1939

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

December 22, 1938.

To All Administrative Officers and State Committeeon, Agricultural Adjustment Administration, Southern Region:

The bulletins issued in connection with the 1938 Agricultural Conservation Program state that the net payment or net deduction with respect to any crop will be divided among the interested persons in the same proportion that such persons are entitled to share in the proceeds of the crop "at the time the crop is harvested" (or "at the time of harvest").

This provision of the bulletin has been interpreted as follows:

In cases where, through sale or legal process, a landlord, tenant, or sharecropper loses his interest in a crop prior to or during harvest, but retains, for the remainder of his tenure under the lease or operating agreement, his position as a producer on the farm on which the crop was grown, and in cases where a tenant or sharecropper abandons a crop which has failed, such person will be entitled to all of the payment, and subject to any deduction, computed with respect to his interest in such crop.

If a landlord, tenant, or sharecropper loses his interest in a crop through sale or legal process and also relinquishes his position as a producer on the farm, or if a tenant or sharecropper abandons a crop the yield of which justifies the harvest thereof, his successor-in-interest will be entitled to all of the payment, and subject to any deduction, computed in connection with such interest, except that, if the loss of or abandonment of such interest and relinquishment of the position of producer takes place after the beginning of and before the completion of harvest, the payment or deduction will be divided between the original producer and his successor-in-interest in the proportion that such persons share in the crop, or proceeds thereof, harvested from the acreage in question.

I. W. Duggan
I. W. Duggan,
Director, Southern Division.



1938 General Letter No. 41A

(Applicable only to farms in the counties designated
in paragraph 3, subsection A, Section XI of SRB-201)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

December 22, 1938.

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region:

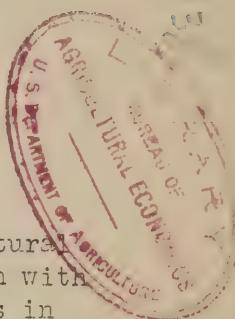
The bulletins issued in connection with the 1938 Agricultural Conservation Program state that the net payment or net deduction with respect to any crop will be divided among the interested persons in the same proportion that such persons are entitled to share in the proceeds of the crop "at the time the crop is harvested" (or "at the time of harvest").

This provision of the bulletin has been interpreted as follows:

In cases where, through sale or legal process, a landlord, tenant, or sharecropper loses his interest in a crop prior to or during harvest, but retains, for the remainder of his tenure under the lease or operating agreement, his position as a producer on the farm on which the crop was grown, such person will be entitled to all of the payment, and subject to any deduction, computed with respect to his interest in such crop. The net payment or net deduction computed in connection with a crop which has failed and which has been abandoned by the operator will be divided between such operator and his successor-in-interest in the proportion that the county committee determines that they contributed to the total expense of seeding and cultivating the crop and of carrying out erosion control practices with respect to the acreage on which the crop was seeded, provided that, if the county committee finds that the original operator abandoned the crop without making any arrangement with his landlord or another producer for carrying out necessary wind erosion control measures on the farm, the payment computed for such operator in accordance with the above instructions shall be disallowed.

If a landlord, tenant, or sharecropper loses his interest in a crop through sale or legal process and also relinquishes his position as a producer on the farm, or if a tenant or sharecropper abandons a crop the yield of which justifies the harvest thereof, his successor-in-interest will be entitled to all of the payment, and subject to any deduction,

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No. 41A



computed in connection with such interest, except that, if the loss of or abandonment of such interest and relinquishment of the position of producer takes place after the beginning of and before the completion of harvest, the payment or deduction will be divided between the original producer and his successor-in-interest in the proportion that such persons share in the crop, or proceeds thereof, harvested from the acreage in question.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 42

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

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December 12, 1938

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region.



The question has been raised regarding the final date for making assignment of payments in connection with the 1938 Agricultural Conservation Program pursuant to section 8(g) of the Soil Conservation and Domestic Allotment Act, as amended.

No assignment of payments under the 1938 Agricultural Conservation Program may hereafter be accepted unless (1) there is no prior assignment outstanding; and (2) the producer making such assignment shows definitely that the assignment is being made as security for cash or advances which will be used to finance the planting of a crop in 1938 for harvest in 1939 or the carrying out of an approved soil-building practice in 1938.

In view of the fact that performance in connection with the 1938 Agricultural Conservation Program has already been substantially completed, it is felt that no assignments of such payments other than for the above purposes should be allowed.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 43.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

December 16, 1938

To all Administrative Officers in Charge,
Agricultural Adjustment Administration,
Southern Region:

Numerous inquiries have been directed to this Division concerning the terms and conditions under which parity payments will be made to producers of wheat, cotton, corn (in the commercial corn-producing area), rice and tobacco under the "Price Adjustment Act of 1938". This Act reads as follows:

"There is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of \$212,000,000 to enable the Secretary of Agriculture to make parity payments to producers of wheat, cotton, corn (in the commercial corn-producing area), rice, and tobacco pursuant to the provisions of section 303 of the Agricultural Adjustment Act of 1938: Provided, however, That, notwithstanding the provisions of said section, one-half of this sum shall be apportioned among such commodities in accordance with the provisions of said section 303 of the Agricultural Adjustment Act of 1938 and one-half shall be apportioned among such commodities in the same proportion that funds available for sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act would be allocated to such commodities in connection with the 1939 agricultural conservation program on the basis of the standards set forth in section 104 of the Agricultural Adjustment Act of 1938: Provided further, That such payments with respect to any such commodity shall be made upon the normal yield of the farm acreage allotment established for the commodity under the 1939 agricultural conservation program, and shall be made with respect to a farm only in the event that the acreage planted to the commodity for harvest on the farm in 1939 is not in excess of the farm acreage allotment established for the commodity under said program: And provided further, That the rate of payment with respect to any commodity shall not exceed the amount by which the average farm price of the commodity is less than 75 per centum of the parity price.

"In apportioning the funds among commodities, parity income for each commodity shall be considered a normal year's domestic consumption and exports (in the case of corn, that part of a normal year's domestic consumption and exports determined on the basis of the proportion that corn production in the commercial corn-producing area was of United States production during the five years



1928-32, inclusive) of such commodity times the parity price. In determining parity prices and farm prices for these commodities, that part of the marketing year ending January 31, 1939, shall be used. In case any person who is entitled to payment hereunder dies, becomes incompetent or disappears before receiving such payment or is succeeded by another who renders or completes the required performance, payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. The administration of this title shall be in accordance with the provisions of the Agricultural Adjustment Act of 1938 and the provisions of other titles of this joint resolution shall not apply to this title".

Your attention is directed particularly to the underscored language of the Act.

It is to be observed that (1) dates of sales or individual sales prices of the 1938 crops or the 1939 crops have no relation whatever to the amount of payment which may be made with respect to a farm; (2) payments will be made upon the basis of the normal yield of the farm acreage allotment for any of the five commodities which may be established for the farm under the 1939 Agricultural Conservation Program; (3) if the acreage planted to the commodity for harvest on the farm in 1939 exceeds the farm acreage allotment for that commodity, without regard to whether the allotment was knowingly or unknowingly exceeded, no parity payment will be made to the producers on that farm with respect to that commodity and farm; and (4) payments are contingent upon the specified compliance in 1939 and cannot be made with respect to any particular commodity until it has been determined whether the acreage planted to the commodity for harvest is not in excess of the farm acreage allotment for such commodity.

It should also be noted that the rate of payment for any commodity shall not exceed the amount by which the average farm price of the commodity is less than 75 per centum of the parity price. If the average farm price as determined for that part of the marketing year ending January 31, 1939, for any one of these five commodities equals or exceeds 75 per centum of the parity price of such commodity no payment will be made with respect to that commodity. The language does not mean that the rate will be the difference between the average farm price of the commodity and 75 percent of the parity price, but means that the rate for each commodity will be such part of that difference as the funds allotted to the commodity will permit.

Although the exact rates of parity payments cannot be determined under the above act before January 31, 1939, there is set out in the table below for cotton, wheat, and rice the estimated range of rates within which the exact rate when finally determined for each such commodity may likely fall. There is also set forth the rate for 1939 under the conservation program for each such commodity and the range of total payments.

Commodity	1939 Agricultural Conservation Program	Range of Parity Payments	Range of Total 1939 Payments
Cotton, per lb.	2¢	1.6¢- 1.8¢	3.6¢- 3.8¢
Wheat, per bu.	17¢	10¢ - 12¢	27¢ - 29¢
Rice, per hundredweight	10¢	12¢ - 13¢	22¢ - 23¢

It is especially requested that this information be placed in the hands of each State, county, and community committeeman, each district and county agent, and each other person connected with the administration of the various agricultural programs in the State who is in a position to furnish information to producers concerning phases of the programs.

Very truly yours,

I. W. Duggan
I. W. Duggan,
Director, Southern Division.

